

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<i>In the matter of</i>	)	
	)	
<b>Wireless Telecommunications Bureau</b>	)	
<b>Seeks Comment on Access 200, LLC</b>	)	WT Docket No. 02-224
<b>Request for Waivers to Provide Band</b>	)	
<b>Management Services Utilizing Licenses</b>	)	
<b>In the 220-222 MHz Band</b>	)	
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**REPLY COMMENTS OF  
North Carolina Electric Membership Corporation**

**I. INTRODUCTION**

North Carolina Electric Membership Corporation (NCEMC) submits comments in the above captioned proceeding<sup>1</sup> to convey its concerns regarding the effects the proposed waiver requests could have on North Carolina and other licensees in the 220-222 MHz band. Furthermore, this action could affect over 800 other electric power cooperative utilities across the United States that have an interest in operations on this frequency band.

NCEMC the nation's second largest electric generation and transmission cooperative. NCEMC is comprised of 26 electric power cooperatives. The cooperatives are: Albemarle Electric Membership Corporation, Blue Ridge Electric Membership

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<sup>1</sup> See *Request for Waivers of Access 220, LLC, To Provide Band Management Services Utilizing Licenses in the 220-222 MHz Band*, filed July 3, 2002.

Corporation, Brunswick Electric Membership Corporation, Cape Hatteras Electric Membership Corporation, Carteret-Craven Electric Membership Corporation, Central Electric Membership Corporation, Edgecomb-Martin Electric Membership Corporation, EnergyUnited Electric Membership Corporation, Four County Electric Membership Corporation, Halifax Electric Membership Corporation, Harkers Island Electric Membership Corporation, Haywood Electric Membership Corporation, Jones-Onslow Electric Membership Corporation, Lumbee River Electric Membership Corporation, Pee Dee Electric Membership Corporation, Piedmont Electric Membership Corporation, Pitt & Greene Electric Membership Corporation, Randolph Electric Membership Corporation, Roanoke Electric Cooperative, Rutherford Electric Membership Corporation, South River Electric Membership Corporation, Surry-Yadkin Electric Membership Corporation, Tideland Electric Membership Corporation, Tri-County Electric Membership Corporation, Union Electric Membership Corporation, and Wake Electric Membership Corporation. The electric power cooperative utilities that are listed above are chartered under the auspices of the US Department of Agriculture, Rural Utilities Service (RUS). Electric power cooperatives nationwide serve 35 million consumers in 46 states, and operate in 2,500 of 3,218 counties in the United States. Nationwide, electric power cooperatives own assets worth approximately \$76 billion, and employ over 60,000 people throughout the country. Electric cooperatives are owned by the consumers they serve. The board of directors of each cooperative are elected by and from our consumers. NCEMC's member cooperatives' primary goal is to provide electricity to its consumer-owners at the lowest possible cost. We utilize two-way radio systems to provide efficient operation of our electric systems, as well as for use during

emergency restoration of power.

NCEMC has contracted with the National Rural Telecommunications Cooperative LLC (NRTC LLC) and retains the rights to NRTC LLC's 22 frequencies for the entire state of North Carolina with its member electric power cooperatives. NCEMC member cooperatives have constructed radio systems in this spectrum, including one system that supports the very first mobile data system for an American electric power cooperative that utilizes a wireless work force management application.

## **II. WE OPENLY SUPPORT THE COMMENTS MADE BY DATA COMLINK, INC. (DCL).**

As a contractual user of the NRTC LLC frequencies, we understand the requirements concerning build-out requirements as per sections 90.733, 90.725, and 90.769 of the Commission's rules.<sup>2</sup> However, we do not agree with Access 220, LLC on their request to become a band manager for the 220-222 MHz band, and therefore have the need to apply for a waiver of the Commission's rules on all of the points as detailed by Data Comlink, Inc.

We also support DCL's comment that a re-allocation of 217-220 MHz and 222-225 MHz be further examined by the Commission. The method as set forth by DCL through their comment seems not only feasible, but very practical.

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<sup>2</sup> 47 C.F.R. §§ 90.733, 90.725, and 90.769.

### **III. CONCLUSION**

NCEMC feels that the petition before the Commission for waiver of rule sections 90.733, 90.725, and 90.769 by Access 220, LLC would not be in the best interests of current or future licensees of this spectrum, nor to the good of the general public for which we serve. As core participants of what has been deemed 'critical infrastructure' by the Association of Public Safety Communication Officers (APCO) in a post-9/11 America, we feel that our interests in the 220 MHz spectrum are considerable and necessary for the public good. We believe that the Commission should thoughtfully consider any changes to existing 220 MHz spectrum and how it might affect current and new licensees in the future before implementing such changes. We believe that by creating a role for band managers on the 220 MHz band, the Commission will be embarking on a path that will be nearly impossible to change in the foreseeable future. These changes will affect current licensees, and mold the shape of how the 220-222 MHz band will be utilized without any significant technical or legal review. Lastly, we believe that there are other ways to reform the existing spectrum and to reallocate little or non-used spectrum above and below this band in order to maximize opportunities of all entities interested in this frequency band. This can be done in a technically feasible way and with little if any impact on adjacent frequency users.

We agree with DCL that the 217-220 MHz and 222-225 MHz spectrum should be considered before undertaking dramatic regulatory changes (i.e. band management) at 220-222 MHz.

We urge the Commission to examine other solutions to 'fix' the 220 MHz band, since as it stands, it could be considered 'broken'. By allowing a waiver to the Commission's rules and permitting band management on the 220 MHz band, we do not think that such a decision would assist anyone other than those who stand to directly benefit from specific and narrow commercial activities.

Respectfully submitted,

NORTH CAROLINA ELECTRIC  
MEMBERSHIP CORPORATION

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